

# **WEST VIRGINIA LEGISLATURE**

**2020 REGULAR SESSION**

**ENROLLED**

**House Bill 4929**

BY DELEGATE SHOTT

[Passed March 2, 2020; in effect ninety days from  
passage.]



1 AN ACT to amend and reenact §44-3A-24 of the Code of West Virginia, 1931, as amended,  
2 relating to the administrative closing of stale or unprogressed estates.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 3A. OPTIONAL PROCEDURE FOR PROOF AND ALLOWANCE OF CLAIMS  
AGAINST ESTATES OF DECEDENTS; COUNTY OPTION.**

**§44-3A-24. Reports of delinquent filings.**

1 (a) On the last day of December and June of each year every fiduciary commissioner and  
2 special fiduciary commissioner shall file with the fiduciary supervisor a list of all estates referred  
3 to him or her since the effective date of this section, either generally or for a limited purpose in  
4 which any appraisal or other document required to be filed with him or her in a specified time  
5 has not been timely filed, stating the document whose filing is delinquent and the date the  
6 document was due to be filed: *Provided*, That the commissioner shall omit from the list any estate  
7 and any document for whose filing a proper continuance has been granted.

8 (b) On January 5 and July 5 of each year the fiduciary supervisor shall file with the county  
9 commission a like list of estates referred to him or her since the effective date of this section in  
10 which the filing of any paper is delinquent, and embrace therein the lists required to be filed with  
11 him or her on the first day of the month by the various commissioners. In the report filed July 5 of  
12 each year the fiduciary supervisor shall further include in the report a list of all estates referred to  
13 him or her since the effective date of this section which have not been duly closed within a period  
14 of three years from the opening of such estate and in which no progress, or in his or her opinion,  
15 unsatisfactory progress, has been made toward settlement, for any cause, within the preceding  
16 12 months.

17 (c) The county commission, after consultation with the fiduciary supervisor shall take care  
18 to require prompt disposition of all matters and causes reported to it by the semiannual reports  
19 required herein of delinquent and unprogressed estates; enter an order in the name of the county

20 commission directing the appointed personal representative to file a statement to show cause  
21 why the county commission should not find the personal representative delinquent in his or her  
22 administration of the respective estate and should not remove the personal representative from  
23 office; administratively close the estate; or take such other action against the personal  
24 representative as may be proper.

25 (1) The order to show cause shall be mailed by the fiduciary supervisor to the personal  
26 representative at the last known address appearing in the records of the fiduciary supervisor. A  
27 copy of the order shall also be mailed to the heirs at law, beneficiaries under the will, any creditors  
28 who have filed claims which are not released, any surety on any bond, and any other person  
29 interested in the estate at their last known addresses appearing in the records of the fiduciary  
30 supervisor.

31 (2) The personal representative shall have 30 days after the mailing of the order to show  
32 cause to file properly any delinquent documents required for the administration of the estate or to  
33 file a verified statement, under oath, stating why he or she should not be found delinquent in the  
34 administration of the respective estate and should not be removed from office or the estate  
35 administratively closed.

36 (3) If, within the 30-day time period, the personal representative fails to file properly the  
37 delinquent documents, or fails to file a verified statement, or files a verified statement which the  
38 fiduciary supervisor upon review finds and determines does not present good cause, the fiduciary  
39 supervisor shall give notice of the failure, delinquency, or finding to the county commission, the  
40 personal representative, the heirs at law, beneficiaries under the will, any creditors who have filed  
41 claims which are not released, any surety on any bond, and any other person interested in the  
42 estate and shall advise that the personal representative shall be removed from office and such  
43 other appropriate person appointed as personal representative as the county commission may  
44 determine or that the estate shall be administratively closed 30 days following the date of the  
45 notice at a hearing thereon to be held before the county commission at a date and time fixed for

46 presentation. In addition, on the first Monday of the next month, the fiduciary supervisor shall  
47 publish a notice of this action as a Class I-0 legal advertisement.

48 (4) The personal representative or any person interested may file an objection at, or prior  
49 to, the time set by the notice for presentation to the county commission. The commission shall  
50 proceed to hear the presentation of the proposed removal or closing and findings and hear  
51 interested parties, if any appear, and may enter an appropriate order to approve, modify and  
52 approve, or refuse to approve, the proposed removal or closing and the findings of the fiduciary  
53 supervisor. Alternatively, the commission may refer the cause to a fiduciary commissioner  
54 generally for supervision or for the purpose of the resolution of any disputed matter. An appeal  
55 from the decision of the county commission may, without any formal bill of exceptions, be taken  
56 to the circuit court of the county by the personal representative or any interested party. The appeal  
57 shall be tried and heard in the circuit court, or before the judge thereof in vacation, on the record  
58 made before the fiduciary supervisor and the county commission.

59 (d) In addition, the fiduciary supervisor and the fiduciary commissioners, shall be  
60 empowered, and where appropriate, shall on their own motion, petition the circuit court to compel  
61 compliance with the provisions of this chapter, in the same manner and to the same extent  
62 heretofore provided in the case of commissioners of accounts, or by any other proper proceeding.



The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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*Chairman, House Committee*

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*Chairman, Senate Committee*

Originating in the House.

In effect ninety days from passage.

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*Clerk of the House of Delegates*

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*Clerk of the Senate*

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*Speaker of the House of Delegates*

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*President of the Senate*

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The within ..... this the.....  
day of ....., 2020.

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*Governor*